

(a) A covered transaction with a person who is currently excluded, unless you obtain an exception under § 208.120; or

(b) A transaction with a person who is disqualified from that transaction, unless you obtain a waiver or exception under the statute, Executive order, or regulation that is the basis for the person's disqualification.

§ 208.425 When do I check to see if a person is excluded or disqualified?

As an agency official, you must check to see if a person is excluded or disqualified before you—

(a) Enter into a primary tier covered transaction;

(b) Approve a principal in a primary tier covered transaction;

(c) Approve a lower tier participant if agency approval of the lower tier participant is required; or

(d) Approve a principal in connection with a lower tier transaction if agency approval of the principal is required.

§ 208.430 How do I check to see if a person is excluded or disqualified?

You check to see if a person is excluded or disqualified in two ways:

(a) You as an agency official must check the *EPLS* when you take any action listed in § 208.425.

(b) You must review information that a participant gives you, as required by § 208.335, about its status or the status of the principals of a transaction.

§ 208.435 What must I require of a primary tier participant?

You as an agency official must require each participant in a primary tier covered transaction to—

(a) Comply with subpart C of this part as a condition of participation in the transaction; and

(b) Communicate the requirement to comply with Subpart C of this part to persons at the next lower tier with whom the primary tier participant enters into covered transactions.

§ 208.440 What method do I use to communicate those requirements to participants?

To communicate the requirements in § 208.35, you must include a term or condition in the transaction requiring

the participants' compliance with subpart C of this part and requiring them to include a similar term or condition in lower-tier covered transactions.

[68 FR 68585, Nov. 26, 2003]

§ 208.445 What action may I take if a primary tier participant knowingly does business with an excluded or disqualified person?

If a participant knowingly does business with an excluded or disqualified person, you as an agency official may refer the matter for suspension and debarment consideration. You may also disallow costs, annul or terminate the transaction, issue a stop work order, or take any other appropriate remedy.

§ 208.450 What action may I take if a primary tier participant fails to disclose the information required under § 208.335?

If you as an agency official determine that a participant failed to disclose information, as required by § 208.335, at the time it entered into a covered transaction with you, you may—

(a) Terminate the transaction for material failure to comply with the terms and conditions of the transaction; or

(b) Pursue any other available remedies, including suspension and debarment.

§ 208.455 What may I do if a lower tier participant fails to disclose the information required under § 208.355 to the next higher tier?

If you as an agency official determine that a lower tier participant failed to disclose information, as required by § 208.355, at the time it entered into a covered transaction with a participant at the next higher tier, you may pursue any remedies available to you, including the initiation of a suspension or debarment action.

Subpart E—Excluded Parties List System

§ 208.500 What is the purpose of the Excluded Parties List System (EPLS)?

The *EPLS* is a widely available source of the most current information